

IC 35-47-13 Version a

Chapter 13. Retired Law Enforcement Officers Identification for Carrying Firearms (First version)

Note: This version of chapter added by P.L.140-2005, SEC.9. See also following version of this chapter added by P.L.187-2005, SEC.4.

IC 35-47-13-1 Version a

"Firearm"

Note: This version of section added by P.L.140-2005, SEC.9. See also following version of this chapter added by P.L.187-2005, SEC.4.

Sec. 1. As used in this chapter, "firearm" has the meaning set forth in 18 U.S.C. 926C(e).

As added by P.L.140-2005, SEC.9.

IC 35-47-13-2 Version a

"Law enforcement agency"

Note: This version of section added by P.L.140-2005, SEC.9. See also following version of this chapter added by P.L.187-2005, SEC.4.

Sec. 2. As used in this chapter, "law enforcement agency" means an agency or a department of:

- (1) the state; or
- (2) a political subdivision of the state;

whose principal function is the apprehension of criminal offenders.

As added by P.L.140-2005, SEC.9.

IC 35-47-13-3 Version a

"Law enforcement officer"

Note: This version of section added by P.L.140-2005, SEC.9. See also following version of this chapter added by P.L.187-2005, SEC.4.

Sec. 3. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-41-1-17(a). The term includes an arson investigator employed by the office of the state fire marshal.

As added by P.L.140-2005, SEC.9.

IC 35-47-13-4 Version a

Photographic identification issued annually

Note: This version of section added by P.L.140-2005, SEC.9. See also following version of this chapter added by P.L.187-2005, SEC.4.

Sec. 4. After June 30, 2005, all law enforcement agencies shall issue annually to each person who has retired from that agency as a law enforcement officer a photographic identification.

As added by P.L.140-2005, SEC.9.

IC 35-47-13-5 Version a

Firearm training and qualification standards

Note: This version of section added by P.L.140-2005, SEC.9. See also following version of this chapter added by P.L.187-2005, SEC.4.

Sec. 5. (a) In addition to the photographic identification issued under section 4 of this chapter, after June 30, 2005, a retired law enforcement officer who carries a concealed firearm under 18 U.S.C.

926C must obtain annually, for each type of firearm that the retired officer intends to carry as a concealed firearm, evidence that the retired officer meets the training and qualification standards to carry that type of firearm established:

(1) by the retired officer's law enforcement agency, for active officers of the agency; or

(2) by the state, for active law enforcement officers in the state.

A retired law enforcement officer bears any expense associated with obtaining the evidence required under this subsection.

(b) The evidence required under subsection (a) is one (1) of the following:

(1) For compliance with the standards described in subsection (a)(1), an endorsement issued by the retired officer's law enforcement agency with or as part of the photographic identification issued under section 4 of this chapter.

(2) For compliance with the standards described in subsection (a)(2), a certification issued by the state.

As added by P.L.140-2005, SEC.9.

IC 35-47-13-6 Version a

Immunity from civil or criminal liability

Note: This version of section added by P.L.140-2005, SEC.9. See also following version of this chapter added by P.L.187-2005, SEC.4.

Sec. 6. An entity that provides evidence required under section 5 of this chapter is immune from civil or criminal liability for providing the evidence.

As added by P.L.140-2005, SEC.9.

IC 35-47-13 Version b

Chapter 13. Proceedings for Seizure and Retention of a Firearm
(Second version)

Note: This version of chapter added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

IC 35-47-13-1 Version b

"Dangerous"

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 1. As used in this chapter, "dangerous" means:

(1) a person presents an imminent risk of personal injury to the person or to another person; or

(2) a person may present a risk of personal injury to the person or to another person in the future and the person:

(A) has a mental illness (as defined in IC 12-7-2-130) that may be controlled by medication, and the person has not demonstrated a pattern of voluntarily and consistently taking the person's medication while not under supervision; or

(B) is the subject of documented evidence that would give

rise to a reasonable belief that the person has a propensity for violent or emotionally unstable conduct.

The fact that a person has been released from a mental health facility or has a mental illness that is currently controlled by medication does not establish that the person is dangerous.

As added by P.L.187-2005, SEC.4.

IC 35-47-13-2 Version b

Warrant for search and seizure of firearm; procedure; probable cause

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 2. A circuit or superior court may issue a warrant to search for and seize a firearm in possession of a person who is dangerous if:

(1) a law enforcement officer provides the court a sworn affidavit:

(A) stating why the law enforcement officer believes the person is dangerous and in possession of a firearm; and

(B) describing the law enforcement officer's interactions and conversations with:

(i) the person who is alleged to be dangerous; or

(ii) another individual, if the law enforcement officer believes that information obtained from this individual is credible and reliable;

that have led the law enforcement officer to believe the person is dangerous and in possession of a firearm;

(2) the affidavit specifically describes the location of the firearm; and

(3) the circuit or superior court determines that probable cause exists to believe that the person is:

(A) dangerous; and

(B) in possession of a firearm.

As added by P.L.187-2005, SEC.4.

IC 35-47-13-3 Version b

Warrantless seizure of firearm; written statement; judicial review

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 3. (a) If a law enforcement officer seizes a firearm from a person whom the law enforcement officer believes to be dangerous without obtaining a warrant, the law enforcement officer shall submit to the circuit or superior court having jurisdiction over the person believed to be dangerous a written statement under oath or affirmation describing the basis for the law enforcement officer's belief that the person is dangerous.

(b) The court shall review the written statement described in subsection (a). If the court finds that probable cause exists to believe that the person is dangerous, the court shall order the law

enforcement agency having custody of the firearm to retain the firearm. If the court finds that there is no probable cause to believe that the person is dangerous, the court shall order the law enforcement agency having custody of the firearm to return the firearm to the person.

(c) This section does not authorize a law enforcement officer to perform a warrantless search or seizure if a warrant would otherwise be required.

As added by P.L.187-2005, SEC.4.

IC 35-47-13-4 Version b

Filing of warrant return; timing; contents

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 4. (a) Unless a court orders the return of the firearm under section 3(b) of this chapter, the law enforcement agency that seized the firearm shall retain custody of the firearm.

(b) If a court issued a warrant to seize a firearm under this chapter, the law enforcement officer who served the warrant shall, not later than forty-eight (48) hours after the warrant was served, file a return with the court, stating:

- (1) that the warrant was served;
- (2) the time and date on which the warrant was served;
- (3) the name and address of the person named in the warrant;
- and
- (4) the quantity and identity of any firearms seized by the law enforcement officer.

As added by P.L.187-2005, SEC.4.

IC 35-47-13-5 Version b

Firearm retention hearing; 14 day period; notice

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 5. (a) Not later than fourteen (14) days after a return is filed under section 4 of this chapter, or a written statement is filed under section 3 of this chapter, the court shall conduct a hearing to determine whether the seized firearm should be:

- (1) returned to the person from whom the firearm was seized;
- or
- (2) retained by the law enforcement agency having custody of the firearm.

(b) The court shall set the hearing date as soon as possible after the return is filed under section 4 of this chapter. The court shall inform the:

- (1) prosecuting attorney; and
- (2) person from whom the firearm was seized;

of the date, time, and location of the hearing. The court may conduct the hearing at a facility or other suitable place not likely to have a

harmful effect upon the person's health or well-being.
As added by P.L.187-2005, SEC.4.

IC 35-47-13-6 Version b

Firearm hearing; burden of proof; retention or return of firearm; suspension of handgun license

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 6. (a) At a hearing conducted under section 5 of this chapter, the state has the burden of proving all material facts by clear and convincing evidence.

(b) If the court determines that the state has proved by clear and convincing evidence that the person is dangerous, the court may order that the law enforcement agency having custody of the seized firearm retain the firearm. In addition, if the person has received a license to carry a handgun, the court shall suspend the person's license to carry a handgun. If the court determines that the state has failed to prove that the person is dangerous, the court shall order the law enforcement agency having custody of the firearm to return it to the person from whom it was seized.

(c) If a court orders a law enforcement agency to retain a firearm, the law enforcement agency shall retain the firearm until the court orders the firearm returned or otherwise disposed of.

As added by P.L.187-2005, SEC.4.

IC 35-47-13-7 Version b

Return of firearm seized from dangerous person to proper owner

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 7. If the court determines that:

- (1) a person is dangerous; and
- (2) a firearm seized from the person is owned by another person;

the court may order the law enforcement agency having custody of the firearm to return the firearm to the owner.

As added by P.L.187-2005, SEC.4.

IC 35-47-13-8 Version b

Petition for return of firearm; 180 day period; procedure; burden of proof; new filing

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 8. (a) At least one hundred eighty (180) days after the date a court orders a law enforcement agency to retain an individual's firearm under section 6 of this chapter, the individual may petition the court for return of the firearm.

(b) Upon receipt of the petition described in subsection (a), the

court shall:

- (1) enter an order setting a hearing date; and
- (2) inform the prosecuting attorney of the date, time, and location of the hearing.
- (c) The prosecuting attorney represents the state at the hearing.
- (d) In a hearing under this section, the individual:
 - (1) may be represented by an attorney; and
 - (2) must prove by a preponderance of the evidence that the individual is not dangerous.
- (e) If upon the completion of the hearing and consideration of the record the court finds that the individual is not dangerous, the court shall order the law enforcement agency having custody of the firearm to return the firearm to the individual.
- (f) If the court denies an individual's petition under this section, the individual may not file a subsequent petition until at least one hundred eighty (180) days after the date on which the court denied the petition.

As added by P.L.187-2005, SEC.4.

IC 35-47-13-9 Version b

Destruction or disposal of seized firearm after five years

Note: This version of section added by P.L.187-2005, SEC.4. See also preceding version of this chapter added by P.L.140-2005, SEC.9.

Sec. 9. If at least five (5) years have passed since the court conducted the first hearing to retain a firearm under this chapter, after giving notice to the parties and conducting a hearing, the court may order the law enforcement agency having custody of the firearm to destroy or otherwise permanently dispose of the firearm.

As added by P.L.187-2005, SEC.4.